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July 7, 2005

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**Re: In re Acacia Media Technologies Corporation**

Dear David:

This letter shall confirm the substance of your telephone call to me of yesterday afternoon. You had called to inform me that the defendants were collectively going to propose modified dates for a briefing schedule for the Motion for Reconsideration of the Markman Order regarding claim terms already construed. Specifically, you were going to be sending me a revised proposed stipulation indicating that defendants would be supplying Acacia with the claim terms on which defendants would seek reconsideration by July 13 and that the parties would exchange opening briefs by July 18.

Your telephone call to me was more than disappointing. All counsel knew that, if we were to provide to the Court a proposed stipulation, we needed to conclude such a stipulation immediately after the Court's June 14 status conference which we all attended. That is why we first met in person immediately after the conference in court, and then concluded we would review a draft proposal Acacia's counsel would immediately prepare and confer about it the following day. Rod Dorman and I prepared that draft immediately after the June 14 conference, and we sent the draft to all counsel that evening. All counsel then discussed the draft during a conference call on June 15. In accordance with those discussions, Acacia's counsel then circulated a revised, proposed stipulation for defendants consideration on June 16. We then heard nothing from any defendant on this issue until your call yesterday--three weeks later.

Since June 16, and the defendants' failure to timely and responsibly address the revised, proposed stipulation circulated for final comment, the Court has imposed its own schedule and our earlier efforts to stipulate to a schedule for all briefing have now been superceded and mooted. I explained during our phone conference yesterday that we understood the Court's June 21, 2005 Order to now control the schedule for the Motion for Reconsideration. The Order

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invites "any party who wishes to file a Motion for Reconsideration of the Court's Markman Order issued on July 12, 2004 to do so in accordance with the schedule set forth below." The Court's schedule requires that we exchange the contentions required by Patent Local Rules 4-1 and 4-2 by July 29 and that we file the Joint Claim Construction Statement required by Patent Local Rule 4-3 by August 25. The Court further states that none of the dates set in the Order may be changed without an order of the Court made after a motion is duly filed. The Court did not request any briefing schedule from the parties in either its June 14 Minute Order or the June 21 Order.

We believe that the issues for the Court to decide can be fully addressed by the parties using the Court's schedule. With the exchange of contentions on July 29, we will be exchanging our respective proposed constructions and the identity of all of the intrinsic and extrinsic evidence, including expert testimony, that will be relied on to support such constructions. Expert depositions can occur in August. Then, on August 25, we will file the Joint Claim Construction Statement, which can include citations to the expert deposition transcripts and each party's contentions, including legal support, for their proposed constructions.

Due to the defendants' inaction, the parties cannot now comply with the schedule that you propose. We have been acting with the understanding that the Court's June 21 Order is controlling. We do not have a stipulation regarding the briefing schedule. We cannot prepare briefs by July 18, because, among other reasons, one of our experts is currently out of the country and would not be returning until after July 18.

You told me that none of the defendants had understood the Court's Order to be the briefing schedule for the Motion for Reconsideration. We believe the Court's June 21 order plainly states otherwise. You advised me that you would confer with counsel for the other defendants to discuss these issues and that you would get back to me.

I look forward to hearing from you soon.

Sincerely,



Alan P. Block

APB/sab

cc: All Counsel (See Attached Distribution List)

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